

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

**SHELL GUAM, INC.,
a Guam corporation,**

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)**

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

**Steven A. Zamsky, Esq.
ZAMSKY LAW FIRM
Suite 805, GCIC Building
414 West Soledad Avenue
Hagatna, Guam USA 96910
Telephone: (671) 477-3637**

DEFENDANTS

**M/V GYOKO MARU NO. 18
and NIKKI SUISAN CORPORATION,
a Japan corporation,**

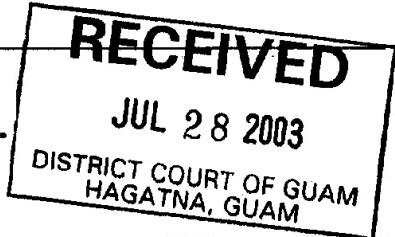
CIV03-00021

**COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)**

**NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED**

ATTORNEYS (IF KNOWN)

UNKNOWN AT THIS TIME.



II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- | | |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question
(U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX
FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input checked="" type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Arrest and foreclosure and sale upon maritime claim and lien, and breach of contract.

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 620 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	SOCIAL SECURITY	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 861 HIA (1395f)	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 410 Voting	<input type="checkbox"/> 863 DIWC/DIWW (405g)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 441 Employment	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	PRISONER PETITIONS	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 865 RSI (405g)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus:	FEDERAL TAX SUITS	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 445 Other Civil Rights	<input type="checkbox"/> 530 General	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment		<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Torts to Land		<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability		<input type="checkbox"/> 550 Other		<input checked="" type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property				

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 another district (specify) 6 Multidistrict Litigation 7 Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT

CHECK IF THIS IS A CLASS ACTION
 UNDER F.R.C.P. 23

**DEMAND \$
\$292,300.61**

Check YES only if demanded in complaint:
JURY DEMAND: YES NO

VIII. RELATED CASE(S)

(See instructions:
IF ANY

JUDGE _____ DOCKET NUMBER _____

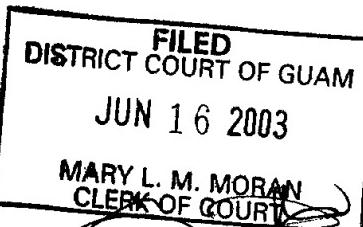
DATE

SIGNATURE OF ATTORNEY OF RECORD

July 28, 2003

Steven A. Zamsky, Esq., ZAMSKY LAW FIRM

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2 ZAMSKY LAW FIRM
3 Suite 805, GCIC Building
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6 Telephone: (671) 477-3637
7 Facsimile : (671) 472-1584



6 Attorneys for Plaintiff Shell Guam, Inc.
7

9 IN THE DISTRICT COURT OF GUAM

10 03-00021

11 CIVIL CASE NO. CIV _____

12 SHELL GUAM, INC.,)
13 a Guam corporation,)
14 Plaintiff,)
15 vs.)
16 M/V GYOKO MARU NO. 18,)
17 and NIKKI SUISAN CORPORATION,)
18 a Japan corporation,)
19 Defendants)
20 _____)

21 VERIFIED
22 COMPLAINT *IN REM*
23 and *IN PERSONAM*

24 COMES NOW Plaintiff Shell Guam, Inc. (hereinafter "Plaintiff Shell") and alleges as
25 follows:

26 JURISDICTION

27 1. This is a case of admiralty and maritime jurisdiction, as will more fully appear, and
28 is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil
Procedure and 28 USC §1292 and breach of contract on pendent and diversity jurisdiction as which
the amount in controversy exceeds \$75,000.00.

29 ORIGINAL

5
6
7 **PARTIES**
8
9

10 2. At all times which shall be mentioned **Plaintiff Shell**, was and still is a corporation
11 duly organized and existing under and by virtue of the laws of Guam USA, with an office and
12 principal place of business in Guam.
13

14 3. Defendant Nikki Suisan Corporation (hereinafter referred to as "**Defendant Nikki**")
15 is a Japanese corporation with offices on Yokohama, Japan.
16

17 **COUNT I**
18
19

20 4. On information and belief the Defendant M/V Gyoko Maru No. 18 (hereinafter
21 referred to as the "**Vessel**" or "**M/V Gyoko Maru No. 18**") is now, and/or during the pendency
22 of this action will be, within this district.
23

24 5. From October 11, 2002 through February 5, 2003 the **Vessel**'s agent requested that
25 Shell delivered petroleum products to the **Vessel**.
26

27 6. From October 11, 2002 through February 5, 2003, **Plaintiff Shell** in fact provided
28 those services to the **Vessel** which are unpaid in a total amount of \$43,367.63.
29

30 7. The Agreement between **Plaintiff Shell** and the **Vessel** provides for the payment of
31 attorneys fees if an action is brought to collect any amounts owed to **Plaintiff Shell**.
32

33 8. As of June 16, 2003, the total amount of principal due and owing is \$43,367.63, plus
34 interest thereon at the rate of 18% per annum from the 30th day of each delivery.
35

36 9. **Plaintiff Shell** is entitled to the payment of its attorneys fees and costs.
37
38

4 WHEREFORE, Plaintiff Shell Guam, Inc. prays:

5 1. For Judgment against the Vessel in the amount of \$43,367.63, plus interest at the
6 rate of 18% per annum and Plaintiff Shell's attorneys fees and costs.

7 2. That process in due form of law, according to the practices of this Honorable Court,
8 in causes of admiralty and maritime jurisdiction, issue against the M/V Gyoko Maru No. 18, her
9 engines, tackle, equipment, and furnishings, etc., and that all persons having or claiming any interest
10 therein be cited to appear and answer, under oath, all and singular the matters aforesaid, with
11 interest and costs; that Plaintiff Shell have a decree for its damages aforesaid, with interest,
12 attorneys fees, and costs; and that the M/V Gyoko Maru No. 18 be condemned and sold to satisfy
13 Plaintiff Shell Guam, Inc.'s Judgment.

14 3. That Plaintiff Shell have such other and further relief as this Court and justice may
15 deem just and appropriate under the circumstances.

16 **COUNT II**

17 1. On January 28, 2003 Defendant Nikki made a written promise to Plaintiff Shell
18 that Defendant Nikki would pay the amount due from Nikki Guam Corporation to Plaintiff Shell
19 in the amount of \$292,300.61 and is due and owing. No part of that amount has been paid and
20 Plaintiff Shell is entitled to Judgment against Defendant Nikki in the amount of \$292,300.61.

21 ///

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26 ///

27 ///

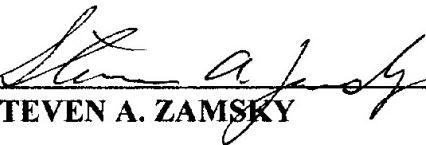
28 ///

5
6
7 **WHEREFORE**, Plaintiff Shell Guam, Inc. prays:

- 8
9 1. For Judgment against the Defendant Nikki in the amount of \$292,300.61.
10
11 2. That Plaintiff Shell have such other and further relief as this Court and justice may
12 deem just and appropriate under the circumstances.

13
14 Dated this 10 day June 2003.

15
16 **ZAMSKY LAW FIRM**
17 Attorneys for Plaintiff Shell Guam, Inc.

18 By: 

19 STEVEN A. ZAMSKY

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VERIFICATION

I, Philip W. Stalker, Vice President/Director of Finance of Shell Guam, Inc., have read the foregoing **Verified Complaint In Rem and In Personam** and know the contents thereof, and that they are true and correct to the best of my knowledge and belief, except as to the matters therein stated on information and belief, and as to those matters believe them to be true.

Dated this 16th day of June 2003.

PHILIP W. STALKER

GUAM USA)
MUNICIPALITY OF HAGĀTÑA)
ss:)

On this 16th day of June 2003, before me, the undersigned Notary Public, duly
commissioned in and for Guam USA, personally appeared **Philip W. Stalker**, known to me to be
the **Vice President/Finance Director** of **Shell Guam, Inc.** and acknowledged to me that he
executed the foregoing **Verified Complaint *In Rem* and *In Personam*** in such capacity, being fully
authorized to do so, and for the purposes and considerations contained therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the
date last above written.

NOTARY PUBLIC

